IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. Civil Second Appeal No.590 of 2006.

State of Rajasthan & Others Vs. Murari Lal & Others

Date of Order ::: 01/12/2006

Hon'ble Mr. Narendra Kumar Jain, J.

Mr. A.S. Khangarot, Addl.G.A.,for defendant-appellants.

By the Court :

Heard learned counsel for the defendant-appellants on the application under Section 5 of the Limitation Act for condonation of delay of 102 days in filing the second appeal as well as on merits of the second appeal also.

The plaintiff-respondents filed a suit for declaration and permanent injunction challenging the notice Exhibit-4 dated 09.02.1999 for recovery of the amount of rent. The grievance of the plaintiffs was that the notice has been issued in the name of his deceased father and the amount of rent has been

determined ex-parte without hearing him. Learned Lower Court decided Issue No.1 in favour of the plaintiffs. However, while deciding Issue No.1 the Lower Court observed that the defendants may recover the amount of rent after following the principles of natural justice. In view of the finding of the Issue No.1 the learned Lower Court decreed the suit of the plaintiffs. Being aggrieved with the same an appeal was preferred by the defendant, but the same was dismissed by the First Appellant Court.

I have heard learned counsel for the defendant-appellant and after considering his submission in the light of the findings of both the Courts below, I do not find any illegality in the impugned judgment passed by both the Courts below and I further find that no substantial question of law is involved in this second appeal so as to interfere in the second appeal under Section 100 of the C.P.C.

Learned counsel for the defendant-appellants has not explained the delay in filing the second appeal. The reasoning given in the application are not satisfactory so as to condone the delay of 102 days. The application under Section 5 of the Limitation Act

is accordingly dismissed.

Consequently, the second appeal is dismissed being barred by limitation as well as on merits also.

(Narendra Kumar Jain) J.